

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Respondent,

No. CR S-02-0519 FCD DAD

vs.

ESEQUIEL QUESADA GARCIA,

Movant.

ORDER

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By separate order, the court has granted respondent's motion for an order declaring a waiver of attorney-client privilege with regard to certain aspects of defense counsel's conduct of movant's state criminal case. Pursuant to the decision in Bittaker v. Woodford, 331 F.3d 715 (9th Cir. 2003) (en banc), the court will limit the use of information and materials obtained by respondent as a result of movant's waiver. Good cause appearing, IT IS HEREBY ORDERED that:

1. All privileged information and materials obtained by respondent during this federal habeas proceeding may be used only by representatives from the Office of the Attorney General of the State of California and any individuals assisting with the pending § 2255 proceedings, and only for purposes of any federal proceedings incident to litigating the claims

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1 presented in the motion to vacate, set aside, or correct the sentence pursuant to 28 U.S.C. § 2255
2 that is now pending before this court.

3 2. Written or oral disclosure of any privileged information may not be made to
4 the prosecutor or prosecutors who will ultimately re-try movant should a retrial be conducted, nor
5 to any other persons or agencies, including any other law enforcement or prosecutorial personnel
6 or agencies, without an order from this court.

7 3. This order is entered nunc pro tunc to the commencement of this action on July
8 30, 2008.

9 4. This order shall continue in effect after the conclusion of movant's § 2255
10 proceedings and specifically shall apply in the event of a retrial of all or any portion of movant's
11 state criminal case, except that either party maintains the right to request modification of this
12 order.

13 DATED: January 8, 2010.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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